

111TH CONGRESS  
1ST SESSION

# H. R. 1431

To stimulate the economy and create jobs at no cost to the taxpayers, and without borrowing money from foreign governments for which our children and grandchildren will be responsible, and for other purposes.

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## IN THE HOUSE OF REPRESENTATIVES

MARCH 11, 2009

Mr. BISHOP of Utah (for himself, Mr. SHADEGG, Mr. SULLIVAN, Mr. BOOZMAN, Mr. JORDAN of Ohio, Mr. GOHMERT, Mr. BURGESS, Mr. FRANKS of Arizona, Mr. AKIN, Mr. MCHENRY, Mr. LEWIS of California, Ms. FOXX, Mr. HERGER, Mr. BOUSTANY, Mr. PITTS, Mrs. MYRICK, Mr. BROUN of Georgia, Mr. RADANOVICH, Mrs. McMORRIS RODGERS, Mr. MCCARTHY of California, Mr. FLEMING, Mr. LATTA, Mr. YOUNG of Alaska, Mr. LAMBORN, Mr. BACHUS, Mr. NEUGEBAUER, and Mr. MCCOTTER) introduced the following bill; which was referred to the Committee on Natural Resources, and in addition to the Committees on the Judiciary, Energy and Commerce, and Science and Technology, for a period to be subsequently determined by the Speaker, in each case for consideration of such provisions as fall within the jurisdiction of the committee concerned

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## A BILL

To stimulate the economy and create jobs at no cost to the taxpayers, and without borrowing money from foreign governments for which our children and grandchildren will be responsible, and for other purposes.

1       *Be it enacted by the Senate and House of Representa-*  
2       *tives of the United States of America in Congress assembled,*

1 **SECTION 1. SHORT TITLE; TABLE OF CONTENTS.**

2 (a) SHORT TITLE.—This Act may be cited as the  
3 “No Cost Stimulus Act of 2009”.

4 (b) TABLE OF CONTENTS.—The table of contents of  
5 this Act is as follows:

Sec. 1. Short title; table of contents.

**TITLE I—OUTER CONTINENTAL SHELF LEASING**

Sec. 101. Leasing program considered approved.

Sec. 102. Lease sales.

Sec. 103. Coastal Impact assistance program amendments.

Sec. 104. Seaward boundaries of States.

**TITLE II—LEASING PROGRAM FOR LAND WITHIN COASTAL PLAIN**

Sec. 201. Definitions.

Sec. 202. Leasing program for land within the Coastal Plain.

Sec. 203. Lease sales.

Sec. 204. Grant of leases by the Secretary.

Sec. 205. Lease terms and conditions.

Sec. 206. Coastal plain environmental protection.

Sec. 207. Expedited judicial review.

Sec. 208. Federal and State distribution of revenues.

Sec. 209. Rights-of-way across the Coastal plain.

Sec. 210. Conveyance.

Sec. 211. Local government impact aid and community service assistance.

Sec. 212. ANWR Alternative Energy Trust Fund.

**TITLE III—REGULATORY STREAMLINING**

Sec. 301. Commercial leasing program for oil shale resources on public land.

Sec. 302. Licensing of new nuclear power plants.

Sec. 303. Jurisdiction over covered energy projects.

Sec. 304. Environmental impact statements.

Sec. 305. Clean air regulation.

Sec. 306. Endangered species.

6 **TITLE I—OUTER CONTINENTAL**  
7 **SHELF LEASING**

8 **SEC. 101. LEASING PROGRAM CONSIDERED APPROVED.**

9 (a) IN GENERAL.—The Draft Proposed Outer Conti-  
10 nental Shelf Oil and Gas Leasing Program 2010–2015  
11 issued by the Secretary of the Interior (referred to in this

1 section as the “Secretary”) under section 18 of the Outer  
2 Continental Shelf Lands Act (43 U.S.C. 1344) is consid-  
3 ered to have been approved by the Secretary as a final  
4 oil and gas leasing program under that section.

5 (b) FINAL ENVIRONMENTAL IMPACT STATEMENT.—  
6 The Secretary is considered to have issued a final environ-  
7 mental impact statement for the program described in  
8 subsection (a) in accordance with all requirements under  
9 section 102(2)(C) of the National Environmental Policy  
10 Act of 1969 (42 U.S.C. 4332(2)(C)).

11 **SEC. 102. LEASE SALES.**

12 (a) OUTER CONTINENTAL SHELF.—

13 (1) IN GENERAL.—Except as provided in para-  
14 graph (2), not later than 30 days after the date of  
15 enactment of this Act and every 270 days thereafter,  
16 the Secretary of the Interior (referred to in this sec-  
17 tion as the “Secretary”) shall conduct a lease sale  
18 in each outer Continental Shelf planning area for  
19 which the Secretary determines that there is a com-  
20 mercial interest in purchasing Federal oil and gas  
21 leases for production on the outer Continental Shelf.

22 (2) SUBSEQUENT DETERMINATIONS AND  
23 SALES.—If the Secretary determines that there is  
24 not a commercial interest in purchasing Federal oil  
25 and gas leases for production on the outer Conti-

1 nental Shelf in a planning area under this sub-  
 2 section, not later than 2 years after the date of en-  
 3 actment of the determination and every 2 years  
 4 thereafter, the Secretary shall—

5 (A) determine whether there is a commer-  
 6 cial interest in purchasing Federal oil and gas  
 7 leases for production on the outer Continental  
 8 Shelf in the planning area; and

9 (B) if the Secretary determines that there  
 10 is a commercial interest described in subpara-  
 11 graph (A), conduct a lease sale in the planning  
 12 area.

13 (b) RENEWABLE ENERGY AND MARICULTURE.—The  
 14 Secretary may conduct commercial lease sales of resources  
 15 owned by United States—

16 (1) to produce renewable energy (as defined in  
 17 section 203(b) of the Energy Policy Act of 2005 (42  
 18 U.S.C. 15852(b))); or

19 (2) to cultivate marine organisms in the natural  
 20 habitat of the organisms.

21 **SEC. 103. COASTAL IMPACT ASSISTANCE PROGRAM AMEND-**  
 22 **MENTS.**

23 Section 31 of the Outer Continental Shelf Lands Act  
 24 (43 U.S.C. 1356a) is amended—

1 (1) in subsection (c), by adding at the end the  
2 following:

3 “(5) APPLICATION REQUIREMENTS; AVAIL-  
4 ABILITY OF FUNDING.—On approval of a plan by  
5 the Secretary under this section, the producing State  
6 shall—

7 “(A) not be subject to any additional appli-  
8 cation or other requirements (other than noti-  
9 fying the Secretary of which projects are being  
10 carried out under the plan) to receive the pay-  
11 ments; and

12 “(B) be immediately eligible to receive pay-  
13 ments under this section.”; and

14 (2) by adding at the end the following:

15 “(e) FUNDING.—

16 “(1) STREAMLINING.—

17 “(A) REPORT.—Not later than 180 days  
18 after the date of enactment of this subsection,  
19 the Secretary of the Interior (acting through  
20 the Director of the Minerals Management Serv-  
21 ice) (referred to in this subsection as the ‘Sec-  
22 retary’) shall develop a plan that addresses  
23 streamlining the process by which payments are  
24 made under this section, including rec-  
25 ommendations for—

1 “(i) decreasing the time required to  
2 approve plans submitted under subsection  
3 (c)(1);

4 “(ii) ensuring that allocations to pro-  
5 ducing States under subsection (b) are  
6 adequately funded; and

7 “(iii) any modifications to the author-  
8 ized uses for payments under subsection  
9 (d).

10 “(B) CLEAN WATER.—Not later than 180  
11 days after the date of enactment of this sub-  
12 section, the Secretary and the Administrator of  
13 the Environmental Protection Agency shall  
14 jointly develop procedures for streamlining the  
15 permit process required under the Federal  
16 Water Pollution Control Act (33 U.S.C. 1251 et  
17 seq.) and State laws for restoration projects  
18 that are included in an approved plan under  
19 subsection (c).

20 “(C) ENVIRONMENTAL REQUIREMENTS.—  
21 A project funded under this section that does  
22 not involve wetlands shall not be subject to en-  
23 vironmental review requirements under Federal  
24 law.

1           “(2) COST-SHARING REQUIREMENTS.—Any  
 2           amounts made available to producing States under  
 3           this section may be used to meet the cost-sharing re-  
 4           quirements of other Federal grant programs, includ-  
 5           ing grant programs that support coastal wetland  
 6           protection and restoration.

7           “(3) EXPEDITED FUNDING.—Not later than  
 8           180 days after the date of enactment of this sub-  
 9           section, the Secretary shall develop a procedure to  
 10          provide expedited funding to projects under this sec-  
 11          tion based on estimated revenues to ensure that the  
 12          projects may—

13                   “(A) secure additional funds from other  
 14                   sources; and

15                   “(B) use the amounts made available  
 16                   under this section on receipt.”.

17 **SEC. 104. SEAWARD BOUNDARIES OF STATES.**

18          (a) SEAWARD BOUNDARIES.—Section 4 of the Sub-  
 19 merged Lands Act (43 U.S.C. 1312) is amended by strik-  
 20 ing “three geographical miles” each place it appears and  
 21 inserting “12 nautical miles”.

22          (b) CONFORMING AMENDMENTS.—Section 2 of the  
 23 Submerged Lands Act (43 U.S.C. 1301) is amended—

1 (1) in subsection (a)(2), by striking “three geo-  
2 graphical miles” and inserting “12 nautical miles”;  
3 and

4 (2) in subsection (b)—

5 (A) by striking “three geographical miles”  
6 and inserting “12 nautical miles”; and

7 (B) by striking “three marine leagues” and  
8 inserting “12 nautical miles”.

9 (c) EFFECT OF AMENDMENTS.—

10 (1) IN GENERAL.—Subject to paragraphs (2)  
11 through (4), the amendments made by this section  
12 shall not effect Federal oil and gas mineral rights.

13 (2) SUBMERGED LAND.—Submerged land with-  
14 in the seaward boundaries of States shall be—

15 (A) subject to Federal oil and gas mineral  
16 rights to the extent provided by law;

17 (B) considered to be part of the Federal  
18 outer Continental Shelf for purposes of the  
19 Outer Continental Shelf Lands Act (43 U.S.C.  
20 1331 et seq.); and

21 (C) subject to leasing under the authority  
22 of that Act and to laws applicable to the leasing  
23 of the oil and gas resources of the Federal  
24 outer Continental Shelf.



1           (3) EXISTING LEASES.—The amendments made  
2           by this section shall not affect any Federal oil and  
3           gas lease in effect on the date of enactment of this  
4           Act.

5           (4) TAXATION.—

6                   (A) IN GENERAL.—Subject to subpara-  
7                   graph (B), a State may exercise all of the sov-  
8                   ereign powers of taxation of the State within  
9                   the entire extent of the seaward boundaries of  
10                  the State (as extended by the amendments  
11                  made by this section).

12                  (B) LIMITATION.—Nothing in this para-  
13                  graph affects the authority of a State to tax  
14                  any Federal oil and gas lease in effect on the  
15                  date of enactment of this Act.

16 **TITLE II—LEASING PROGRAM**  
17 **FOR LAND WITHIN COASTAL**  
18 **PLAIN**

19 **SEC. 201. DEFINITIONS.**

20           In this title:

21                   (1) COASTAL PLAIN.—The term “Coastal  
22                   Plain” means that area identified as the “1002  
23                   Coastal Plain Area” on the map.

24                   (2) FEDERAL AGREEMENT.—The term “Fed-  
25                   eral Agreement” means the Federal Agreement and

1 Grant Right-of-Way for the Trans-Alaska Pipeline  
2 issued on January 23, 1974, in accordance with sec-  
3 tion 28 of the Mineral Leasing Act (30 U.S.C. 185)  
4 and the Trans-Alaska Pipeline Authorization Act  
5 (43 U.S.C. 1651 et seq.).

6 (3) FINAL STATEMENT.—The term “Final  
7 Statement” means the final legislative environmental  
8 impact statement on the Coastal Plain, dated April  
9 1987, and prepared pursuant to section 1002 of the  
10 Alaska National Interest Lands Conservation Act  
11 (16 U.S.C. 3142) and section 102(2)(C) of the Na-  
12 tional Environmental Policy Act of 1969 (42 U.S.C.  
13 4332(2)(C)).

14 (4) MAP.—The term “map” means the map en-  
15 titled “Arctic National Wildlife Refuge”, dated Sep-  
16 tember 2005, and prepared by the United States Ge-  
17 ological Survey.

18 (5) SECRETARY.—The term “Secretary” means  
19 the Secretary of the Interior (or the designee of the  
20 Secretary), acting through the Director of the Bu-  
21 reau of Land Management, in consultation with the  
22 Director of the United States Fish and Wildlife  
23 Service.

1 **SEC. 202. LEASING PROGRAM FOR LAND WITHIN THE**  
2 **COASTAL PLAIN.**

3 (a) IN GENERAL.—The Secretary shall take such ac-  
4 tions as are necessary—

5 (1) to establish and implement, in accordance  
6 with this title, a competitive oil and gas leasing pro-  
7 gram that will result in an environmentally sound  
8 program for the exploration, development, and pro-  
9 duction of the oil and gas resources of the Coastal  
10 Plain; and

11 (2) to administer this title through regulations,  
12 lease terms, conditions, restrictions, prohibitions,  
13 stipulations, and other provisions that—

14 (A) ensure the oil and gas exploration, de-  
15 velopment, and production activities on the  
16 Coastal Plain will result in no significant ad-  
17 verse effect on fish and wildlife, their habitat,  
18 subsistence resources, and the environment; and

19 (B) require the application of the best  
20 commercially available technology for oil and  
21 gas exploration, development, and production to  
22 all exploration, development, and production op-  
23 erations under this title in a manner that en-  
24 sures the receipt of fair market value by the  
25 public for the mineral resources to be leased.

26 (b) REPEAL.—

1           (1) REPEAL.—Section 1003 of the Alaska Na-  
2           tional Interest Lands Conservation Act of 1980 (16  
3           U.S.C. 3143) is repealed.

4           (2) CONFORMING AMENDMENT.—The table of  
5           contents contained in section 1 of that Act (16  
6           U.S.C. 3101 note) is amended by striking the item  
7           relating to section 1003.

8           (3) COMPLIANCE WITH NEPA FOR OTHER AC-  
9           TIONS.—

10           (A) IN GENERAL.—Before conducting the  
11           first lease sale under this title, the Secretary  
12           shall prepare an environmental impact state-  
13           ment in accordance with the National Environ-  
14           mental Policy Act of 1969 (42 U.S.C. 4321 et  
15           seq.) with respect to the actions authorized by  
16           this title that are not referred to in paragraph  
17           (2).

18           (B) IDENTIFICATION AND ANALYSIS.—  
19           Notwithstanding any other provision of law, in  
20           carrying out this paragraph, the Secretary shall  
21           not be required—

22                   (i) to identify nonleasing alternative  
23                   courses of action; or

24                   (ii) to analyze the environmental ef-  
25                   fects of those courses of action.

1 (C) IDENTIFICATION OF PREFERRED AC-  
2 TION.—Not later than 18 months after the date  
3 of enactment of this Act, the Secretary shall—

4 (i) identify only a preferred action and  
5 a single leasing alternative for the first  
6 lease sale authorized under this title; and

7 (ii) analyze the environmental effects  
8 and potential mitigation measures for  
9 those 2 alternatives.

10 (D) PUBLIC COMMENTS.—In carrying out  
11 this paragraph, the Secretary shall consider  
12 only public comments that are filed not later  
13 than 20 days after the date of publication of a  
14 draft environmental impact statement.

15 (E) EFFECT OF COMPLIANCE.—Notwith-  
16 standing any other provision of law, compliance  
17 with this paragraph shall be considered to sat-  
18 isfy all requirements for the analysis and con-  
19 sideration of the environmental effects of pro-  
20 posed leasing under this title.

21 (c) RELATIONSHIP TO STATE AND LOCAL AUTHOR-  
22 ITY.—Nothing in this title expands or limits any State or  
23 local regulatory authority.

24 (d) SPECIAL AREAS.—

25 (1) DESIGNATION.—

1 (A) IN GENERAL.—The Secretary, after  
2 consultation with the State of Alaska, the  
3 North Slope Borough, Alaska, and the City of  
4 Kaktovik, Alaska, may designate not more than  
5 45,000 acres of the Coastal Plain as a special  
6 area if the Secretary determines that the special  
7 area would be of such unique character and in-  
8 terest as to require special management and  
9 regulatory protection.

10 (B) SADLEROCHIT SPRING AREA.—The  
11 Secretary shall designate as a special area in  
12 accordance with subparagraph (A) the  
13 Sadlerochit Spring area, comprising approxi-  
14 mately 4,000 acres as depicted on the map.

15 (2) MANAGEMENT.—The Secretary shall man-  
16 age each special area designated under this sub-  
17 section in a manner that preserves the unique and  
18 diverse character of the area, including fish, wildlife,  
19 subsistence resources, and cultural values of the  
20 area.

21 (3) EXCLUSION FROM LEASING OR SURFACE  
22 OCCUPANCY.—

23 (A) IN GENERAL.—The Secretary may ex-  
24 clude any special area designated under this  
25 subsection from leasing.

1           (B) NO SURFACE OCCUPANCY.—If the Sec-  
2           retary leases all or a portion of a special area  
3           for the purposes of oil and gas exploration, de-  
4           velopment, production, and related activities,  
5           there shall be no surface occupancy of the land  
6           comprising the special area.

7           (4) DIRECTIONAL DRILLING.—Notwithstanding  
8           any other provision of this subsection, the Secretary  
9           may lease all or a portion of a special area under  
10          terms that permit the use of horizontal drilling tech-  
11          nology from sites on leases located outside the spe-  
12          cial area.

13          (e) LIMITATION ON CLOSED AREAS.—The Secretary  
14          may not close land within the Coastal Plain to oil and gas  
15          leasing or to exploration, development, or production ex-  
16          cept in accordance with this title.

17          (f) REGULATIONS.—

18               (1) IN GENERAL.—Not later than 15 months  
19               after the date of enactment of this Act, the Sec-  
20               retary shall promulgate such regulations as are nec-  
21               essary to carry out this title, including rules and  
22               regulations relating to protection of the fish and  
23               wildlife, fish and wildlife habitat, subsistence re-  
24               sources, and environment of the Coastal Plain.

1           (2) REVISION OF REGULATIONS.—The Sec-  
2       retary shall periodically review and, as appropriate,  
3       revise the rules and regulations issued under para-  
4       graph (1) to reflect any significant biological, envi-  
5       ronmental, scientific or engineering data that come  
6       to the attention of the Secretary.

7   **SEC. 203. LEASE SALES.**

8       (a) IN GENERAL.—Land may be leased pursuant to  
9       this title to any person qualified to obtain a lease for de-  
10      posits of oil and gas under the Mineral Leasing Act (30  
11      U.S.C. 181 et seq.).

12      (b) PROCEDURES.—The Secretary shall, by regula-  
13      tion, establish procedures for—

14           (1) receipt and consideration of sealed nomina-  
15      tions for any area in the Coastal Plain for inclusion  
16      in, or exclusion (as provided in subsection (c)) from,  
17      a lease sale;

18           (2) the holding of lease sales after that nomina-  
19      tion process; and

20           (3) public notice of and comment on designa-  
21      tion of areas to be included in, or excluded from, a  
22      lease sale.

23      (c) LEASE SALE BIDS.—Bidding for leases under  
24      this title shall be by sealed competitive cash bonus bids.



1 (d) ACREAGE MINIMUM IN FIRST SALE.—For the  
 2 first lease sale under this title, the Secretary shall offer  
 3 for lease those tracts the Secretary considers to have the  
 4 greatest potential for the discovery of hydrocarbons, tak-  
 5 ing into consideration nominations received pursuant to  
 6 subsection (b)(1), but in no case less than 200,000 acres.

7 (e) TIMING OF LEASE SALES.—The Secretary  
 8 shall—

9 (1) not later than 22 months after the date of  
 10 enactment of this Act, conduct the first lease sale  
 11 under this title;

12 (2) not later than 90 days after the date of the  
 13 completion of the sale, evaluate the bids in the sale  
 14 and issue leases resulting from the sale; and

15 (3) conduct additional sales at appropriate in-  
 16 tervals if sufficient interest in exploration or devel-  
 17 opment exists to warrant the conduct of the addi-  
 18 tional sales.

19 **SEC. 204. GRANT OF LEASES BY THE SECRETARY.**

20 (a) IN GENERAL.—On payment by a lessee of such  
 21 bonus as may be accepted by the Secretary, the Secretary  
 22 may grant to the highest responsible qualified bidder in  
 23 a lease sale conducted pursuant to section 203 a lease for  
 24 any land on the Coastal Plain.

25 (b) SUBSEQUENT TRANSFERS.—

1           (1) IN GENERAL.—No lease issued under this  
2           title may be sold, exchanged, assigned, sublet, or  
3           otherwise transferred except with the approval of the  
4           Secretary.

5           (2) CONDITION FOR APPROVAL.—Before grant-  
6           ing any approval described in paragraph (1), the  
7           Secretary shall consult with and give due consider-  
8           ation to the opinion of the Attorney General.

9   **SEC. 205. LEASE TERMS AND CONDITIONS.**

10          An oil or gas lease issued pursuant to this title  
11          shall—

12               (1) provide for the payment of a royalty of not  
13               less than 12½ percent of the amount or value of the  
14               production removed or sold from the lease, as deter-  
15               mined by the Secretary in accordance with regula-  
16               tions applicable to other Federal oil and gas leases;

17               (2) provide that the Secretary may close, on a  
18               seasonal basis, such portions of the Coastal Plain to  
19               exploratory drilling activities as are necessary to  
20               protect caribou calving areas and other species of  
21               fish and wildlife;

22               (3) require that each lessee of land within the  
23               Coastal Plain shall be fully responsible and liable for  
24               the reclamation of land within the Coastal Plain and  
25               any other Federal land that is adversely affected in

1 connection with exploration, development, produc-  
2 tion, or transportation activities within the Coastal  
3 Plain conducted by the lessee or by any of the sub-  
4 contractors or agents of the lessee;

5 (4) provide that the lessee may not delegate or  
6 convey, by contract or otherwise, that reclamation  
7 responsibility and liability to another person without  
8 the express written approval of the Secretary;

9 (5) provide that the standard of reclamation for  
10 land required to be reclaimed under this title shall  
11 be, to the maximum extent practicable—

12 (A) a condition capable of supporting the  
13 uses that the land was capable of supporting  
14 prior to any exploration, development, or pro-  
15 duction activities; or

16 (B) on application by the lessee, to a high-  
17 er or better standard, as approved by the Sec-  
18 retary;

19 (6) contain terms and conditions relating to  
20 protection of fish and wildlife, fish and wildlife habi-  
21 tat, subsistence resources, and the environment as  
22 required under section 202(a)(2);

23 (7) provide that each lessee, and each agent  
24 and contractor of a lessee, use their best efforts to  
25 provide a fair share of employment and contracting

1 for Alaska Natives and Alaska Native Corporations  
2 from throughout the State of Alaska, as determined  
3 by the level of obligation previously agreed to in the  
4 Federal Agreement; and

5 (8) contain such other provisions as the Sec-  
6 retary determines to be necessary to ensure compli-  
7 ance with this title and the regulations promulgated  
8 under this title.

9 **SEC. 206. COASTAL PLAIN ENVIRONMENTAL PROTECTION.**

10 (a) NO SIGNIFICANT ADVERSE EFFECT STANDARD  
11 TO GOVERN AUTHORIZED COASTAL PLAIN ACTIVITIES.—  
12 In accordance with section 202, the Secretary shall admin-  
13 ister this title through regulations, lease terms, conditions,  
14 restrictions, prohibitions, stipulations, or other provisions  
15 that—

16 (1) ensure, to the maximum extent practicable,  
17 that oil and gas exploration, development, and pro-  
18 duction activities on the Coastal Plain will result in  
19 no significant adverse effect on fish and wildlife, fish  
20 and wildlife habitat, and the environment;

21 (2) require the application of the best commer-  
22 cially available technology for oil and gas explo-  
23 ration, development, and production on all new ex-  
24 ploration, development, and production operations;  
25 and

1           (3) ensure that the maximum surface acreage  
2           covered in connection with the leasing program by  
3           production and support facilities, including airstrips  
4           and any areas covered by gravel berms or piers for  
5           support of pipelines, does not exceed 2,000 acres on  
6           the Coastal Plain.

7           (b) SITE-SPECIFIC ASSESSMENT AND MITIGATION.—  
8           The Secretary shall require, with respect to any proposed  
9           drilling and related activities on the Coastal Plain, that—

10           (1) a site-specific analysis be made of the prob-  
11           able effects, if any, that the drilling or related activi-  
12           ties will have on fish and wildlife, fish and wildlife  
13           habitat, subsistence resources, subsistence uses, and  
14           the environment;

15           (2) a plan be implemented to avoid, minimize,  
16           and mitigate (in that order and to the maximum ex-  
17           tent practicable) any significant adverse effect iden-  
18           tified under paragraph (1); and

19           (3) the development of the plan shall occur  
20           after consultation with the 1 or more agencies hav-  
21           ing jurisdiction over matters mitigated by the plan.

22           (c) REGULATIONS TO PROTECT COASTAL PLAIN  
23           FISH AND WILDLIFE RESOURCES, SUBSISTENCE USERS,  
24           AND THE ENVIRONMENT.—Before implementing the leas-  
25           ing program authorized by this title, the Secretary shall

1 prepare and issue regulations, lease terms, conditions, re-  
2 strictions, prohibitions, stipulations, or other measures de-  
3 signed to ensure, to the maximum extent practicable, that  
4 the activities carried out on the Coastal Plain under this  
5 title are conducted in a manner consistent with the pur-  
6 poses and environmental requirements of this title.

7 (d) COMPLIANCE WITH FEDERAL AND STATE ENVI-  
8 RONMENTAL LAWS AND OTHER REQUIREMENTS.—The  
9 proposed regulations, lease terms, conditions, restrictions,  
10 prohibitions, and stipulations for the leasing program  
11 under this title shall require—

12 (1) compliance with all applicable provisions of  
13 Federal and State environmental law (including reg-  
14 ulations);

15 (2) implementation of and compliance with—

16 (A) standards that are at least as effective  
17 as the safety and environmental mitigation  
18 measures, as described in items 1 through 29  
19 on pages 167 through 169 of the Final State-  
20 ment, on the Coastal Plain;

21 (B) seasonal limitations on exploration, de-  
22 velopment, and related activities, as necessary,  
23 to avoid significant adverse effects during peri-  
24 ods of concentrated fish and wildlife breeding,  
25 denning, nesting, spawning, and migration;

1 (C) design safety and construction stand-  
2 ards for all pipelines and any access and service  
3 roads that minimize, to the maximum extent  
4 practicable, adverse effects on—

5 (i) the passage of migratory species  
6 (such as caribou); and

7 (ii) the flow of surface water by re-  
8 quiring the use of culverts, bridges, or  
9 other structural devices;

10 (D) prohibitions on general public access  
11 to, and use of, all pipeline access and service  
12 roads;

13 (E) stringent reclamation and rehabilita-  
14 tion requirements in accordance with this title  
15 for the removal from the Coastal Plain of all oil  
16 and gas development and production facilities,  
17 structures, and equipment on completion of oil  
18 and gas production operations, except in a case  
19 in which the Secretary determines that those  
20 facilities, structures, or equipment—

21 (i) would assist in the management of  
22 the Arctic National Wildlife Refuge; and

23 (ii) are donated to the United States  
24 for that purpose;

1 (F) appropriate prohibitions or restrictions

2 on—

3 (i) access by all modes of transpor-

4 tation;

5 (ii) sand and gravel extraction; and

6 (iii) use of explosives;

7 (G) reasonable stipulations for protection

8 of cultural and archaeological resources;

9 (H) measures to protect groundwater and

10 surface water, including—

11 (i) avoidance, to the maximum extent

12 practicable, of springs, streams, and river

13 systems;

14 (ii) the protection of natural surface

15 drainage patterns and wetland and ripar-

16 ian habitats; and

17 (iii) the regulation of methods or tech-

18 niques for developing or transporting ade-

19 quate supplies of water for exploratory

20 drilling; and

21 (I) research, monitoring, and reporting re-

22 quirements;

23 (3) that exploration activities (except surface

24 geological studies) be limited to the period between

25 approximately November 1 and May 1 of each year



1 and be supported, if necessary, by ice roads, winter  
2 trails with adequate snow cover, ice pads, ice air-  
3 strips, and air transport methods (except that those  
4 exploration activities may be permitted at other  
5 times if the Secretary determines that the explo-  
6 ration will have no significant adverse effect on fish  
7 and wildlife, fish and wildlife habitat, and the envi-  
8 ronment of the Coastal Plain);

9 (4) consolidation of facility siting;

10 (5) avoidance or reduction of air traffic-related  
11 disturbance to fish and wildlife;

12 (6) treatment and disposal of hazardous and  
13 toxic wastes, solid wastes, reserve pit fluids, drilling  
14 muds and cuttings, and domestic wastewater, includ-  
15 ing, in accordance with applicable Federal and State  
16 environmental laws (including regulations)—

17 (A) preparation of an annual waste man-  
18 agement report;

19 (B) development and implementation of a  
20 hazardous materials tracking system; and

21 (C) prohibition on the use of chlorinated  
22 solvents;

23 (7) fuel storage and oil spill contingency plan-  
24 ning;

1           (8) conduct of periodic field crew environmental  
2       briefings;

3           (9) avoidance of significant adverse effects on  
4       subsistence hunting, fishing, and trapping;

5           (10) compliance with applicable air and water  
6       quality standards;

7           (11) appropriate seasonal and safety zone des-  
8       ignations around well sites, within which subsistence  
9       hunting and trapping shall be limited; and

10          (12) development and implementation of such  
11       other protective environmental requirements, restric-  
12       tions, terms, or conditions as the Secretary deter-  
13       mines to be necessary.

14       (e) CONSIDERATIONS.—In preparing and issuing reg-  
15   ulations, lease terms, conditions, restrictions, prohibitions,  
16   or stipulations under this section, the Secretary shall take  
17   into consideration—

18           (1) the stipulations and conditions that govern  
19       the National Petroleum Reserve-Alaska leasing pro-  
20       gram, as set forth in the 1999 Northeast National  
21       Petroleum Reserve-Alaska Final Integrated Activity  
22       Plan/Environmental Impact Statement;

23           (2) the environmental protection standards that  
24       governed the initial Coastal Plain seismic exploration  
25       program under parts 37.31 through 37.33 of title

1       50, Code of Federal Regulations (or successor regu-  
2       lations); and

3           (3) the land use stipulations for exploratory  
4       drilling on the KIC-ASRC private land described in  
5       appendix 2 of the agreement between Arctic Slope  
6       Regional Corporation and the United States dated  
7       August 9, 1983.

8       (f) FACILITY CONSOLIDATION PLANNING.—

9           (1) IN GENERAL.—After providing for public  
10      notice and comment, the Secretary shall prepare and  
11      periodically update a plan to govern, guide, and di-  
12      rect the siting and construction of facilities for the  
13      exploration, development, production, and transpor-  
14      tation of oil and gas resources from the Coastal  
15      Plain.

16          (2) OBJECTIVES.—The objectives of the plan  
17      shall be—

18           (A) the avoidance of unnecessary duplica-  
19      tion of facilities and activities;

20           (B) the encouragement of consolidation of  
21      common facilities and activities;

22           (C) the location or confinement of facilities  
23      and activities to areas that will minimize impact  
24      on fish and wildlife, fish and wildlife habitat,  
25      subsistence resources, and the environment;

1 (D) the use of existing facilities, to the  
2 maximum extent practicable; and

3 (E) the enhancement of compatibility be-  
4 tween wildlife values and development activities.

5 (g) ACCESS TO PUBLIC LAND.—The Secretary  
6 shall—

7 (1) manage public land in the Coastal Plain in  
8 accordance with subsections (a) and (b) of section  
9 811 of the Alaska National Interest Lands Con-  
10 servation Act (16 U.S.C. 3121); and

11 (2) ensure that local residents shall have rea-  
12 sonable access to public land in the Coastal Plain for  
13 traditional uses.

14 **SEC. 207. EXPEDITED JUDICIAL REVIEW.**

15 (a) FILING OF COMPLAINTS.—

16 (1) DEADLINE.—A complaint seeking judicial  
17 review of a provision of this title or an action of the  
18 Secretary under this title shall be filed—

19 (A) except as provided in subparagraph  
20 (B), during the 90-day period beginning on the  
21 date on which the action being challenged was  
22 carried out; or

23 (B) in the case of a complaint based solely  
24 on grounds arising after the 90-day period de-  
25 scribed in subparagraph (A), by not later than

1           90 days after the date on which the complain-  
2           ant knew or reasonably should have known  
3           about the grounds for the complaint.

4           (2) VENUE.—A complaint seeking judicial re-  
5           view of a provision of this title or an action of the  
6           Secretary under this title shall be filed in the United  
7           States Court of Appeals for the District of Columbia  
8           Circuit.

9           (3) SCOPE.—

10           (A) IN GENERAL.—Judicial review of a de-  
11           cision of the Secretary relating to a lease sale  
12           under this title (including an environmental  
13           analysis of such a lease sale) shall be—

14           (i) limited to a review of whether the  
15           decision is in accordance with this title;  
16           and

17           (ii) based on the administrative record  
18           of the decision.

19           (B) PRESUMPTIONS.—Any identification  
20           by the Secretary of a preferred course of action  
21           relating to a lease sale, and any analysis by the  
22           Secretary of environmental effects, under this  
23           title shall be presumed to be correct unless  
24           proven otherwise by clear and convincing evi-  
25           dence.

1 (b) LIMITATION ON OTHER REVIEW.—Any action of  
2 the Secretary that is subject to judicial review under this  
3 section shall not be subject to judicial review in any civil  
4 or criminal proceeding for enforcement.

5 **SEC. 208. FEDERAL AND STATE DISTRIBUTION OF REVE-**  
6 **NUES.**

7 (a) IN GENERAL.—Notwithstanding any other provi-  
8 sion of law, of the amount of adjusted bonus, rental, and  
9 royalty revenues from Federal oil and gas leasing and op-  
10 erations authorized under this title for each fiscal year—

11 (1) 50 percent shall be paid to the State of  
12 Alaska; and

13 (2) except as provided in section 211(d), the  
14 balance shall be—

15 (A) used to offset the provisions of this  
16 Act; and

17 (B) after making the offsets under sub-  
18 paragraph (A), transferred to the ANWR Alter-  
19 native Energy Trust Fund established by sec-  
20 tion 212.

21 (b) PAYMENTS TO ALASKA.—Payments to the State  
22 of Alaska under this section shall be made semiannually.

1 **SEC. 209. RIGHTS-OF-WAY ACROSS THE COASTAL PLAIN.**

2 (a) IN GENERAL.—The Secretary shall issue rights-  
3 of-way and easements across the Coastal Plain for the  
4 transportation of oil and gas—

5 (1) except as provided in paragraph (2), under  
6 section 28 of the Mineral Leasing Act (30 U.S.C.  
7 185), without regard to title XI of the Alaska Na-  
8 tional Interest Lands Conservation Act (16 U.S.C.  
9 3161 et seq.); and

10 (2) under title XI of the Alaska National Inter-  
11 est Lands Conservation Act (16 U.S.C. 3161 et  
12 seq.), for access authorized by sections 1110 and  
13 1111 of that Act (16 U.S.C. 3170, 3171).

14 (b) TERMS AND CONDITIONS.—The Secretary shall  
15 include in any right-of-way or easement issued under sub-  
16 section (a) such terms and conditions as may be necessary  
17 to ensure that transportation of oil and gas does not result  
18 in a significant adverse effect on the fish and wildlife, sub-  
19 sistence resources, their habitat, and the environment of  
20 the Coastal Plain, including requirements that facilities be  
21 sited or designed so as to avoid unnecessary duplication  
22 of roads and pipelines.

23 (c) REGULATIONS.—The Secretary shall include in  
24 regulations under section 202(f) provisions granting  
25 rights-of-way and easements described in subsection (a).

1 **SEC. 210. CONVEYANCE.**

2       Notwithstanding section 1302(h)(2) of the Alaska  
3 National Interest Lands Conservation Act (16 U.S.C.  
4 3192(h)(2)), to remove any cloud on title to land, and to  
5 clarify land ownership patterns in the Coastal Plain, the  
6 Secretary shall—

7           (1) to the extent necessary to fulfill the entitle-  
8 ment of the Kaktovik Inupiat Corporation under sec-  
9 tions 12 and 14 of the Alaska Native Claims Settle-  
10 ment Act (43 U.S.C. 1611, 1613), as determined by  
11 the Secretary, convey to that Corporation the sur-  
12 face estate of the land described in paragraph (1) of  
13 Public Land Order 6959, in accordance with the  
14 terms and conditions of the agreement between the  
15 Secretary, the United States Fish and Wildlife Serv-  
16 ice, the Bureau of Land Management, and the  
17 Kaktovik Inupiat Corporation, dated January 22,  
18 1993; and

19           (2) convey to the Arctic Slope Regional Cor-  
20 poration the remaining subsurface estate to which  
21 that Corporation is entitled under the agreement be-  
22 tween that corporation and the United States, dated  
23 August 9, 1983.

24 **SEC. 211. LOCAL GOVERNMENT IMPACT AID AND COMMU-**  
25 **NITY SERVICE ASSISTANCE.**

26       (a) FINANCIAL ASSISTANCE AUTHORIZED.—



1           (1) IN GENERAL.—The Secretary may use  
2           amounts available from the Coastal Plain Local Gov-  
3           ernment Impact Aid Assistance Fund established by  
4           subsection (d) to provide timely financial assistance  
5           to entities that are eligible under paragraph (2).

6           (2) ELIGIBLE ENTITIES.—The North Slope  
7           Borough, the City of Kaktovik, and any other bor-  
8           ough, municipal subdivision, village, or other com-  
9           munity in the State of Alaska that is directly im-  
10          pacted by exploration for, or the production of, oil  
11          or gas on the Coastal Plain under this title, as de-  
12          termined by the Secretary, shall be eligible for finan-  
13          cial assistance under this section.

14          (b) USE OF ASSISTANCE.—Financial assistance  
15          under this section may be used only—

16                (1) to plan for mitigation, implement a mitiga-  
17                tion plan, or maintain a mitigation project to ad-  
18                dress the potential effects of oil and gas exploration  
19                and development on environmental, social, cultural,  
20                recreational, and subsistence resources of the com-  
21                munity;

22                (2) to develop, carry out, and maintain—

23                      (A) a project to provide new or expanded  
24                      public facilities; or

1 (B) services to address the needs and prob-  
2 lems associated with the effects described in  
3 paragraph (1), including firefighting, police,  
4 water and waste treatment, first responder, and  
5 other medical services; and

6 (3) to establish a local coordination office, to be  
7 managed by the Mayor of the North Slope Borough,  
8 in coordination with the City of Kaktovik, Alaska—

9 (A) to coordinate with and advise devel-  
10 opers on local conditions and the history of  
11 areas affected by development; and

12 (B) to provide to the Committee on Re-  
13 sources of the House of Representatives and the  
14 Committee on Energy and Natural Resources of  
15 the Senate annual reports on the status of the  
16 coordination between developers and commu-  
17 nities affected by development.

18 (c) APPLICATION.—

19 (1) IN GENERAL.—Any community that is eligi-  
20 ble for assistance under this section may submit an  
21 application for such assistance to the Secretary, in  
22 such form and under such procedures as the Sec-  
23 retary may prescribe by regulation.

24 (2) NORTH SLOPE BOROUGH COMMUNITIES.—A  
25 community located in the North Slope Borough may

1       apply for assistance under this section either directly  
2       to the Secretary or through the North Slope Bor-  
3       ough.

4           (3) APPLICATION ASSISTANCE.—The Secretary  
5       shall work closely with and assist the North Slope  
6       Borough and other communities eligible for assist-  
7       ance under this section in developing and submitting  
8       applications for assistance under this section.

9       (d) ESTABLISHMENT OF FUND.—

10           (1) IN GENERAL.—There is established in the  
11       Treasury the “Coastal Plain Local Government Im-  
12       pact Aid Assistance Fund” (referred to in this sec-  
13       tion as the “Fund”).

14           (2) USE.—Amounts in the Fund may be used  
15       only for providing financial assistance under this  
16       section.

17           (3) DEPOSITS.—Subject to paragraph (4), there  
18       shall be deposited into the Fund amounts received  
19       by the United States as revenues derived from rents,  
20       bonuses, and royalties from Federal leases and lease  
21       sales authorized under this title.

22           (4) LIMITATION ON DEPOSITS.—The total  
23       amount in the Fund may not exceed \$11,000,000.

1           (5) INVESTMENT OF BALANCES.—The Sec-  
2       retary of the Treasury shall invest amounts in the  
3       Fund in interest bearing government securities.

4       (e) AUTHORIZATION OF APPROPRIATIONS.—There is  
5       authorized to be appropriated to the Secretary from the  
6       Fund to provide financial assistance under this section  
7       \$5,000,000 for each fiscal year.

8       **SEC. 212. ANWR ALTERNATIVE ENERGY TRUST FUND.**

9       (a) ESTABLISHMENT OF TRUST FUND.—There is es-  
10      tablished in the Treasury of the United States a trust fund  
11      to be known as the “ANWR Alternative Energy Trust  
12      Fund”, consisting of such amounts as may be transferred  
13      to the ANWR Alternative Energy Trust Fund as provided  
14      in section 208(a)(2).

15      (b) EXPENDITURES FROM ANWR ALTERNATIVE  
16      ENERGY TRUST FUND.—

17           (1) IN GENERAL.—Amounts in the ANWR Al-  
18      ternative Energy Trust Fund shall be available with-  
19      out further appropriation to carry out specified pro-  
20      visions of the Energy Policy Act of 2005 (Public  
21      Law 109–58; referred to in this section as  
22      “EPAAct2005”) and the Energy Independence and  
23      Security Act of 2007 (Public Law 110–140; referred  
24      to in this section as “EISAct2007”) as follows:

**The following percentage of annual receipts to the ANWR Alternative Energy Trust Fund, but not to exceed the limit on amount authorized, if any:**

**To carry out the provisions of:**

EPAct2005:

Section 210 .....	1.5 percent
Section 242 .....	1.0 percent
Section 369 .....	2.0 percent
Section 401 .....	6.0 percent
Section 812 .....	6.0 percent
Section 931 .....	19.0 percent
Section 942 .....	1.5 percent
Section 962 .....	3.0 percent
Section 968 .....	1.5 percent
Section 1704 .....	6.0 percent

EISAct2007:

Section 207 .....	15.0 percent
Section 607 .....	1.5 percent
Title VI, Subtitle B .....	3.0 percent
Title VI, Subtitle C .....	1.5 percent
Section 641 .....	9.0 percent
Title VII, Subtitle A .....	10.0 percent
Section 1112 .....	1.5 percent
Section 1304 .....	11.0 percent.

1           (2) APPORTIONMENT OF EXCESS AMOUNT.—

2           Notwithstanding paragraph (1), any amounts allo-

3           cated under paragraph (1) that are in excess of the

4           amounts authorized in the applicable cited section or

5           subtitle of EPAct2005 and EISAct2007 shall be re-

6           allocated to the remaining sections and subtitles

7           cited in paragraph (1), up to the amounts otherwise

8           authorized by law to carry out those sections and

9           subtitles, in proportion to the amounts authorized by

10          law to be appropriated for those other sections and

11          subtitles.

# **TITLE III—REGULATORY STREAMLINING**

## **SEC. 301. COMMERCIAL LEASING PROGRAM FOR OIL SHALE RESOURCES ON PUBLIC LAND.**

Subsection (e) of the Oil Shale, Tar Sands, and Other Strategic Unconventional Fuels Act of 2005 (42 U.S.C. 15927(e)) is amended—

(1) in the first sentence, by striking “Not later” and inserting the following:

“(1) IN GENERAL.—Not later”;

(2) in the second sentence—

(A) by striking “If the Secretary” and inserting the following:

“(2) LEASE SALES.—

“(A) IN GENERAL.—If the Secretary”; and

(B) by striking “may” and inserting “shall”;

(3) in the last sentence, by striking “Evidence of interest” and inserting the following:

“(B) EVIDENCE OF INTEREST.—Evidence of interest”; and

(4) by adding at the end the following:

“(C) SUBSEQUENT LEASE SALES.—During any period for which the Secretary determines that there is sufficient support and interest in

1 a State in the development of tar sands and oil  
2 shale resources, the Secretary shall—

3 “(i) at least annually, consult with the  
4 persons described in paragraph (1) to ex-  
5 pedite the commercial leasing program for  
6 oil shale resources on public land in the  
7 State; and

8 “(ii) at least once every 270 days,  
9 conduct a lease sale in the State under the  
10 commercial leasing program regulations.”.

11 **SEC. 302. LICENSING OF NEW NUCLEAR POWER PLANTS.**

12 (a) CONSTRUCTION PERMITS AND OPERATING LI-  
13 CENSES.—Section 185 b. of the Atomic Energy Act of  
14 1954 (42 U.S.C. 2235(b)) is amended in the first sentence  
15 by striking “holding a public hearing” and inserting “any  
16 public hearing held”.

17 (b) HEARINGS AND JUDICIAL REVIEW.—Section 189  
18 a.(1)(A) of the Atomic Energy Act of 1954 (42 U.S.C.  
19 2239(a)(1)(A)) is amended—

20 (1) by striking the second sentence; and

21 (2) in the third sentence—

22 (A) by striking “In cases” and all that fol-  
23 lows through “hearing, The” and inserting  
24 “The”; and

1 (B) by striking “an operating license” and  
2 inserting “a construction permit, an operating  
3 license,”.

4 **SEC. 303. JURISDICTION OVER COVERED ENERGY**  
5 **PROJECTS.**

6 (a) DEFINITION OF COVERED ENERGY PROJECT.—

7 In this section, the term “covered energy project” means  
8 any action or decision by a Federal official regarding—

9 (1) the leasing of Federal land (including sub-  
10 merged land) for the exploration, development, pro-  
11 duction, processing, or transmission of oil, natural  
12 gas, or any other source or form of energy, including  
13 actions and decisions regarding the selection or of-  
14 fering of Federal land for such leasing; or

15 (2) any action under such a lease, except that  
16 this section and Act shall not apply to a dispute be-  
17 tween the parties to a lease entered into a provision  
18 of law authorizing the lease regarding obligations  
19 under the lease or the alleged breach of the lease.

20 (b) EXCLUSIVE JURISDICTION OVER CAUSES AND  
21 CLAIMS RELATING TO COVERED ENERGY PROJECTS.—

22 Notwithstanding any other provision of law, the United  
23 States District Court for the District of Columbia shall  
24 have exclusive jurisdiction to hear all causes and claims



1 under this section or any other Act that arise from any  
2 covered energy project.

3 (c) TIME FOR FILING COMPLAINT.—

4 (1) IN GENERAL.—Each case or claim described  
5 in subsection (b) shall be filed not later than the end  
6 of the 60-day period beginning on the date of the ac-  
7 tion or decision by a Federal official that constitutes  
8 the covered energy project concerned.

9 (2) PROHIBITION.—Any cause or claim de-  
10 scribed in subsection (b) that is not filed within the  
11 time period described in paragraph (1) shall be  
12 barred.

13 (d) DISTRICT COURT FOR THE DISTRICT OF COLUM-  
14 BIA DEADLINE.—

15 (1) IN GENERAL.—Each proceeding that is sub-  
16 ject to subsection (b) shall—

17 (A) be resolved as expeditiously as prac-  
18 ticable and in any event not more than 180  
19 days after the cause or claim is filed; and

20 (B) take precedence over all other pending  
21 matters before the district court.

22 (2) FAILURE TO COMPLY WITH DEADLINE.—If  
23 an interlocutory or final judgment, decree, or order  
24 has not been issued by the district court by the  
25 deadline required under this section, the cause or

1 claim shall be dismissed with prejudice and all rights  
 2 relating to the cause or claim shall be terminated.

3 (e) ABILITY TO SEEK APPELLATE REVIEW.—An in-  
 4 terlocutory or final judgment, decree, or order of the dis-  
 5 trict court under this section may be reviewed by no other  
 6 court except the Supreme Court.

7 (f) DEADLINE FOR APPEAL TO THE SUPREME  
 8 COURT.—If a writ of certiorari has been granted by the  
 9 Supreme Court pursuant to subsection (e), the interlocu-  
 10 tory or final judgment, decree, or order of the district  
 11 court shall be resolved as expeditiously as practicable and  
 12 in any event not more than 180 days after the interlocu-  
 13 tory or final judgment, decree, order of the district court  
 14 is issued.

15 **SEC. 304. ENVIRONMENTAL IMPACT STATEMENTS.**

16 Title I of the National Environmental Policy Act of  
 17 1969 (42 U.S.C. 4331 et seq.) is amended by adding at  
 18 the end the following:

19 **“SEC. 106. COMPLETION AND REVIEW OF ENVIRONMENTAL**  
 20 **IMPACT STATEMENTS.**

21 **“(a) COMPLETION.—**

22 **“(1) IN GENERAL.—**Notwithstanding any other  
 23 provision of law, each review carried out under sec-  
 24 tion 102(2)(C) with respect to any action taken  
 25 under any provision of law, or for which funds are

1       made available under any provision of law, shall be  
2       completed not later than the date that is 270 days  
3       after the commencement of the review.

4               “(2) FAILURE TO COMPLETE REVIEW.—If a re-  
5       view described in paragraph (1) has not been com-  
6       pleted for an action subject to section 102(2)(C) by  
7       the date specified in paragraph (1)—

8               “(A) the action shall be considered to have  
9       no significant impact described in section  
10       102(2)(C); and

11              “(B) that classification shall be considered  
12       to be a final agency action.

13       “(b) LEAD AGENCY.—The lead agency for a review  
14       of an action under this section shall be the Federal agency  
15       to which funds are made available for the action.

16       “(c) REVIEW.—

17              “(1) ADMINISTRATIVE APPEALS.—There shall  
18       be a single administrative appeal for each review  
19       carried out pursuant to section 102(2)(C).

20              “(2) JUDICIAL REVIEW.—

21              “(A) IN GENERAL.—On resolution of the  
22       administrative appeal, judicial review of the  
23       final agency decision after exhaustion of admin-  
24       istrative remedies shall lie with the United

1 States Court of Appeals for the District of Co-  
2 lumbia Circuit.

3 “(B) ADMINISTRATIVE RECORD.—An ap-  
4 peal to the court described in subparagraph (A)  
5 shall be based only on the administrative  
6 record.

7 “(C) PENDENCY OF JUDICIAL REVIEW.—  
8 After an agency has made a final decision with  
9 respect to a review carried out under this sub-  
10 section, the decision shall be effective during  
11 the course of any subsequent appeal to a court  
12 described in subparagraph (A).

13 “(3) CIVIL ACTION.—Each civil action covered  
14 by this section shall be considered to arise under the  
15 laws of the United States.”.

16 **SEC. 305. CLEAN AIR REGULATION.**

17 (a) REGULATION OF GREENHOUSE GASES.—Section  
18 302(g) of the Clean Air Act (42 U.S.C. 7602(g)) is  
19 amended—

20 (1) by striking “(g) The term” and inserting  
21 the following:

22 “(g) AIR POLLUTANT.—

23 “(1) IN GENERAL.—The term”;

24 (2) by striking “Such term” and inserting the  
25 following:

1           “(2) INCLUSIONS.—The term ‘air pollutant’”;  
2           and

3           (3) by adding at the end the following:

4           “(3) EXCLUSIONS.—The term ‘air pollutant’  
5           does not include carbon dioxide, methane from agri-  
6           culture or livestock, or water vapor.”.

7           (b) EMISSION WAIVERS.—The Administrator of the  
8           Environmental Protection Agency shall not grant to any  
9           State any waiver of Federal preemption of motor vehicle  
10          standards under section 209(b) of the Clean Air Act (42  
11          U.S.C. 7543(b)) for preemption under that Act for any  
12          regulation of the State to control greenhouse gas emis-  
13          sions from motor vehicles.

14       **SEC. 306. ENDANGERED SPECIES.**

15          (a) EMERGENCIES.—Section 10 of the Endangered  
16          Species Act of 1973 (16 U.S.C. 1539) is amended by add-  
17          ing at the end the following:

18          “(k) EMERGENCIES.—On the declaration of an emer-  
19          gency by the Governor of a State, the Secretary shall, for  
20          the duration of the emergency, temporarily exempt from  
21          the prohibition against taking, and the prohibition against  
22          the adverse modification of critical habitat, under this Act  
23          any action that is reasonably necessary to avoid or amelio-  
24          rate the impact of the emergency, including the operation

1 of any water supply or flood control project by a Federal  
2 agency.”.

3 (b) PROHIBITION OF CONSIDERATION OF IMPACT OF  
4 GREENHOUSE GAS.—

5 (1) IN GENERAL.—The Endangered Species Act  
6 of 1973 (16 U.S.C. 1531 et seq.) is amended by  
7 adding at the end the following:

8 **“SEC. 19. PROHIBITION OF CONSIDERATION OF IMPACT OF**  
9 **GREENHOUSE GAS.**

10 “(a) DEFINITION OF GREENHOUSE.—In this section,  
11 the term ‘greenhouse gas’ means any of—

12 “(1) carbon dioxide;

13 “(2) methane;

14 “(3) nitrous oxide;

15 “(4) sulfur hexafluoride;

16 “(5) a hydrofluorocarbon;

17 “(6) a perfluorocarbon; or

18 “(7) any other anthropogenic gas designated by  
19 the Secretary for purposes of this section.

20 “(b) IMPACT OF GREENHOUSE GAS.—The impact of  
21 greenhouse gas on any species of fish or wildlife or plant  
22 shall not be considered for any purpose in the implementa-  
23 tion of this Act.”.

24 (2) CONFORMING AMENDMENT.—The table of  
25 contents in the first section of the Endangered Spe-

- 1       cies Act of 1973 (16 U.S.C. prec. 1531) is amended
- 2       by adding at the end the following:

“Sec. 18. Annual cost analysis by the Fish and Wildlife Service.

“Sec. 19. Prohibition of consideration of impact of greenhouse gas.”.

